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EXAMINER

STRANGE, AARON N

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/605,848

Applicant(s)

DODRILL ET AL.

Examiner

Aaron Strange

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-20,22-28,30-39 and 41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-20,22-28,30-39 and 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner would like to note that the present application has been reassigned to a new Examiner.

Response to Amendment

2. The amendment filed on July 28, 2004 has been entered. Claims 1, 12, 20, 28, and 39 have been amended and are presented for further examination. Claims 2, 21, 29, and 40 have previously been cancelled.

Claims 1, 3-20, 22-28, 30-39 and 41 are pending.

3. With regard to claims 1, 12, 20, 28, and 39, Applicant's amendments are insufficient to overcome the Phaal (US 6,055,564) reference.

4. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

5. With regard to Applicant's general assertion that "the independent claims have been amended to make it clear that the generated HTML page having interrupt instructions originates with respect to the first party" (Page 9, Lines 13-16 of Remarks), and that this is somehow different from Phaal, the Examiner respectfully disagrees. As

Art Unit: 2153

noted by Applicant (Page 9, Lines 8-12 of Remarks), in Phaal, the countdown mechanism originates at the server (second party), not the client (first party). However, the amendments to the independent claims fail to distinguish from Phaal.

For example, in claim 1, the HTML page originates in the *application server* serving the first party. Clearly, the HTML page originates at the server, as taught by Phaal and acknowledged by Applicant. Claim 12 states that the page originates in a first application instance, which is "serving a first party" (Line 1), and is also, therefore, at the server. Claim 20 merely states that an application runtime environment, which is part of an application server (preamble) originates the HTML document. Claim 28 merely states that the HTML page originates in an application *session* of the first party, which is the session established between the client and the server in Phaal. Claim 39 recites similar limitations to claim 20.

It is clear that the HTML page in the independent claims of the present application is generated at the server in at least claims 1, 12, 20, and 39 and is generated in the session between the client and the server in claim 28. Therefore, Phaal anticipates these claims, as well as several of their respective dependents, as discussed below.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1 and 3-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. With regard to claim 1, the limitation "the application server serving the first party" is unclear. It is unclear if this application server is the same application server stated in the preamble or a different application server, since the application server serving the first part has not previously been identified in the claim. For the purpose of applying prior art, it has been interpreted that the application server set forth in the preamble is the application server serving the first party.

9. All claims not individually rejected are rejected by virtue of their dependency from the above claims.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2153

11. Claims 1, 3-7, 9, 12-14, 17-20, 22-24, 28, 30-34, 36, 39, and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Phaal (US Patent 6,055,564).

12. In referring to claim 1, Phaal teaches a method for admissions control admitting incoming messages based on priority. A client sends a message to a server requesting a particular web site and based on availability, the server processing the message according to message priority. (col. 4 lines 22-26). If server is currently not able to process message, a deferral process is executed (col. 9 lines 24-32). Deferral manager generates deferral message consisting of a special web page including a countdown function for re-submitting the request for a new application session (col. 4 lines 50-61). If the server is able to process the resubmitted message, the result could be bumping or interrupting a session in-progress having a lower priority in order to receive the resubmitted (higher priority) message (col. 12 lines 50-54). Accordingly, Phaal shows:

- determining whether a second party (web site server) is available to receive a message established in an application session of a first party (client) (col. 4 lines 11-26 col. 6 lines 13-32, note that a priority is used to evaluate whether the web server is currently able to receive the message);
- based on the determined availability of the second party, generating a HTML page (special web page as part of the deferred message), originating in the application server serving the first party (deferral message originates from the server serving the first party) (Col 4, Lines 52-64) , having instructions (countdown function) for a browser to notify (resubmit request) the second party of a new application

Art Unit: 2153

session for the second party so as to present the message to the second party (col. 4 lines 50-58, col. 7 lines 30-44, Note that the deferring message consists of a HTML page sent to client for counting down to resubmit the message.);

- wherein the generating step includes inserting a uniform resource locator (URL) within the HTML page causing the browser to request interruption of a present application session of the second party to create the new application session for the second party (col. 12 lines 50-59, figure 5, Note that when a deferred message is resubmitted and found to have a higher priority than a current session in-progress, the resubmitted message with a higher priority is used to establish a new session on the server).

13. In referring to claim 28, Phaal shows:

- determining whether a second party (web site server) is available to receive a message established in an application session of a first party (client) (col. 4 lines 11-26 col. 6 lines 13-32, note that a priority is used to evaluate whether the web server is currently able to receive the message);
- based on the determined availability of the second party, generating a HTML page (special web page as part of the deferred message), originating in the application session of the first party (message is originated in the session of the first party during a new session deferral) (Col 50-59) , having instructions (countdown function) for a browser to notify (resubmit request) the second party of a new application session for the second party so as to present the message to the second

Art Unit: 2153

party (col. 4 lines 50-58, col. 7 lines 30-44, Note that the deferring message consists of a HTML page sent to client for counting down to resubmit the message.);

- wherein the generating step includes inserting a uniform resource locator (URL) within the HTML page causing the browser to request interruption of a present application session of the second party to create the new application session for the second party (col. 12 lines 50-59, figure 5, Note that when a deferred message is resubmitted and found to have a higher priority than a current session in-progress, the resubmitted message with a higher priority is used to establish a new session on the server).

14. In referring to claims 3 and 30, Phaal shows generating a new session identifier that specifies the new application session for the second party, wherein the URL includes the new session identifier for interrupting the present session of the second party with the new application session (col. 8 lines 27-29).

15. In referring to claims 4 and 31, Phaal shows initiating an application instance for execution of the new application session for the second party based on a server-side data record configured for storing a state of the new application session and selected based on the new session identifier, in response to receipt of the URL from the browser (col. 5 lines 4-8, Buffer 16- tracking list of sessions).

16. In referring to claims 5, 22, 32, and 41, Phaal shows the HTML page includes a prompt enabling the second party to respond to the message (col. 7 lines 8-15, resubmission of request at the end of countdown).

17. In referring to claims 6, 23, and 33, Phaal shows the determining step includes accessing a registry locally accessible by the application server, and the method further including updating the registry to indicate that the first party is available for messaging operations (col. 8 lines 22-27, transaction list buffer).

18. In referring to claims 7 and 34 Phaal shows storing the message in a data store of the second party (col. 10 lines 16-35, deferral message).

19. In referring to claims 9 and 36, Phaal shows including accessing attribute determine whether the second party authorizes information of the second party to receipt of the message from the first party (col. 5 lines 4-8, list 16).

20. In referring to claim 12, Phaal shows,

- establishing a first non-persistent application instance serving a first party (a deferred message serving a first party, col. 7 lines 30-44);
- establishing a second non-persistent application instance serving a second party (current sessions being executed on the server, col. 8 lines 36-49); and

Art Unit: 2153

- generating an HTML page, originating in the first application instance (HTML page is part of the deferral message) (Col 7, Lines 30-44), having instructions (countdown) for a persistent browser instance, having received the HTML page, to interrupt (resubmit) a present application session of the second party and initiate a new application session for the second party (col. 7 lines 30-44, figure 5, Note that the deferring message consists of a HTML page sent to client for counting down to resubmit the message wherein, when a deferred message is resubmitted and found to have a higher priority than a current session in-progress, the resubmitted message with a higher priority is used to establish a new session on the server.

21. In referring to claim 13, Phaal shows accessing, by at least one of the first and second application instances, a common resource over an IP network (col. 1 lines 18-27).

22. In referring to claims 14 and 27, Phaal shows the common resource is a registry, the method including accessing the registry to determine whether the second party is currently active in the second application instance (col. 6 lines 30-36).

23. In referring to claims 17, Phaal shows the first application instance is established in first application server and the second application instance is established in a second application server (col. 5 lines 17-19, fig. 1 number 17, 18, 117, 118).

24. In referring to claims 18 and 24, Phaal shows the common resource is accessible via an application programming interface (API) (col. 4 lines 49-60).

25. In referring to claim 19, Phaal shows initiating an application instance for execution of the new application session for the second party based on a server-side data record configured for storing a state of the new application session and selected based on the new session identifier, in response to receipt of the HTML page from the browser (col. 8 lines 22-35, col. 12 lines 50- col. 13 line 5).

26. In referring to claim 20 and 39, Phaal shows:

- an application runtime environment configured for dynamically originating and generating, for a first party (client), a hypertext markup language (HTML) document (special web page as part of the deferred message) having instructions (countdown to resubmit) for a browser to notify a second party of a new application session for the second party (col. 7 lines 30-44), based on a determination that the second party is available to receive the HTML document (deferred message), the application runtime environment being configured to access a common resource (admission control gateway) containing information regarding both the first and second parties (col. 8 lines 18-35),
- wherein the HTML document has instructions (countdown) to interrupt a present application session of the second party to create the new application session for

Art Unit: 2153

the second party (col. 12 lines 50-59, figure 5, Note that when a deferred message is resubmitted and found to have a higher priority than a current session in-progress, the resubmitted message with a higher priority is used to establish a new session on the server).

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. Claims 8, 16, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phaal in view of Alles et al. (US 6,466,976).

Although Phaal shows substantial features of the claimed invention Phaal does not show IMAP protocol. Nonetheless this feature is well known in the art, and would have been an obvious modification to the system disclosed by Phaal as evidenced by Alles.

In an analogous art, Alles shows admissions control having service policies for each subscriber. The desired service policies are translated into processing rules. Alles shows an IMAP protocol as a service for which messages are sent and a policy

Art Unit: 2153

regarding the admittance of a message received in accordance with IMAP protocol (col. 12 lines 24-32).

Given this feature, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system shown by Phaal to employ the feature shown by Alles in order to admit messages according to a protocol service.

29. Claims 10, 15, 25, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phaal in view of Vaid et al. (US 6,047,322).

Although Phaal shows substantial features of the claimed invention Phaal does not show LDAP protocol. Nonetheless this feature is well known in the art, and would have been an obvious modification to the system disclosed by Phaal as evidenced by Vaid.

In an analogous art Vaid shows a system for admissions control to improve quality of service. Vaid shows accessing a database server according LDAP protocol for determining the level of admittance of traffic from a central administration point (col. 11 lines 20-30).

Given this feature, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system shown by Phaal to employ the feature shown by Vaid in order to centralize a lookup function for admittance of traffic to ensure quality of service.

Art Unit: 2153

30. Claims 11 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phaal in view of Obhan et al. (US 6,366,780).

Although Phaal shows substantial features of the claimed invention Phaal does not show HTML page for playing a voice message. Nonetheless this feature is well known in the art, and would have been an obvious modification to the system disclosed by Phaal as evidenced by Obhan.

In an analogous art Obhan shows a system for admission controls of incoming calls. Calls are monitored as load in a real-time basis so as not to overload the system. Obhan shows taking a voice mail message to be later played back when the call is denied.

Given this feature, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system shown by Phaal to employ the feature shown by Obhan, in order to receive a message indication of a call on a voice system.

Conclusion


31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2153

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AS
7/18/2005



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